IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 4232 of 2004

Between:

1. Budi Pedda Anjaneyudu, s/o Gundanna,
   R/o Chinna Tekuru Village, Kalluru Mandal, Kurnool District.
2 P.Srinivasulu, s/o late Anumanthu,
   R/o Chinna Tekuru Village, Kalluru Mandal, Kurnool District.
3 B.Gowramma, w/o late Naganna,
   R/o Chinna Tekuru Village, Kalluru Mandal, Kurnool District.

..... PETITIONERS

AND

1 The District Collector, Kurnool District, Kurnool.
2 The Revenue Divisional Officer, Kurnool Division, Kurnool.
3 The Mandal Revenue Officer, Krishna Nagar, Kalluru

Mandal, Kurnool District.
4 The Surveyor, o/o M.R.O., Krishna Nagar,
   Kalluru Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of mandamus or any other appropriate writ, order or direction by declaring the action of the respondents 3 and 4 in interfering with the peaceful possession of the petitioners in their Agricultural Lands, situated at Chinna Tekuru Village of Kalluru Mandal, Kurnool District as illegal, arbitrary and unconstitutional and consequently direct the respondents not to dispossess from their Agricultural Lands, situated at Chinna Tekuru Village of Kalluru Mandal, Kurnool District.

Counsel for the Petitioner:MR.S.GOPAL RAO

Counsel for the Respondent No.: GP FOR ASSIGNMENTS

The Court made the following :

O R D E R:

Alleging that their fore fathers were assigned land in Survey No.89, 90, 91 & 92 at Chinna Tekuru Village of Kalluru Mandal, and that they as their successors are continuing in possession of the said land from a long time and were issued Pattadar Pass Books in respect of that land and that respondents 3 and 4 who visited the said land on

22-2-2004 tried to evict them by force on the ground that the said land would be assigned to third parties, petitioners filed this petition seeking declaration that the action of respondents 3 and 4 in interfering with their peaceful possession and enjoyment of the aforesaid is arbitrary and unconstitutional, and for a consequential direction to respondents not to dispossess them from the land in their possession.

2 . In the counter affidavit filed on behalf of the respondents it is admitted that petitioners are the legal heirs of the original assignees, and since first petitioner is a government servant he is not eligible to continue in possession of Ac.1.19 cents in Survey No.90 and since petitioners 2 and 3 kept Ac.1=00 in S.No.90 and Ac.1=14 cents in S.No.92, assigned to their ancestor, vacant from several years and as they are also not residing in the village, and since Ac.4.04 cents out of Ac.12.25 cents in Survey Nos.89, 90 and 92 was selected for being assigned as house sites to eligible persons living in the village, and since some of the assignees and or their legal heirs sold away the assigned lands unauthorizedly in contravention of the assignment rules, to third parties at a higher price, notices were issued by the Mandal Revenue Officer, and having received the said notices petitioners instead of approaching the Mandal Revenue Officer, filed this writ petition, though land in possession of

petitioners 1 and 2 was not earmarked for allotment as house sites. Ac.1.14 cents in Survey No.92 belonging to third petitioner which is kept vacant from several years would be allotted for house site and so the petitioners are not entitled for any relief.

3. Heard the learned counsel for the petitioners and learned Government Pleader for respondents.

4. Petitioners admittedly are the legal heirs of the assignees since the contention of the respondents is that first petitioner is not entitle to continue in possession of the assigned lands because of his being a government servant and that respondents 2 and 3 are not entitled to continue in possession of the assigned lands for violation of the terms of assignment, making it clear that respondents, after following due process of law only can take possession of the land, the writ petition is disposed of. In fact petitioners, who are claiming title of the property could have approached the Civil Court for appropriate relief without invoking the jurisdiction of this Court under Article 226 of the Constitution.

5. The writ petition is disposed of accordingly. No order as to costs.

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21st February, 2005.

mrb

To

1. The District Collector, Kurnool District, Kurnool.
2. The Revenue Divisional Officer, Kurnool Division, Kurnool.
3. The Mandal Revenue Officer, Krishna Nagar, Kalluru

Mandal, Kurnool District.

4. The Surveyor, o/o M.R.O., Krishna Nagar,
   Kalluru Mandal, Kurnool District.

5. Two CCs to G.P for Assignment, High Court Buildings,

Hyderabad(OUT).

6. Two CD copies.

Alleging that the fore fathers of the petitioners were assigned land in Survey No. 89, 90, 91 & 92 situate at Chinna Tekuru Village of Kalluru Mandal and that they are continuing in possession of the land allotted to their fore fathers for a very long time and issued Pattadar Pass Books in favour of the petitioners by the concerned revenue officials and respondents 3 and 4 visited on 22-2-2004 and they tried to evict them by force and alleging that the said land in possession would be assigned to some third parties, petitioners filed this petition seeking declaration that the action of the respondents 3 and 4 in interfering with their peaceful possession and enjoyment of their agricultural lands of Chinna Tekuru Village as arbitrary and un constitutional, and for a consequential directions to the respondents not to dispossess the petitioners from the lands in their possession.

2. On behalf of the respondents, the respondents counsel filed a counter affidavit contending that the petitioners are the legal heirs of the original assignees and that the first petitioner is not eligible to be in possession of his fathers' lands of one Ac.

1.19 cents in Survey No.90 of Chinna Tekuru Village, since he is working as a Government servant in Venternary Department and that the second petitioner is the legal heir of the late P.Hanumanthu and third petitioner is the wife of B. Naganna have kept the land in Survey No.90 to an extent of Ac. 1.00 and Survey No.92 to an extent of Ac. 1.14 cents since vacant several years, which was assigned to the original assignees. They were also not residing in the village. But, only recently, they are residing in the village and that an extent of Ac. 4.04 cents in out of Ac.12.25 cents in Survey Nos.89, 90 and 92 were selected for grant of house sites to the eligible persons of the same village and since the assignees and their legal heirs sold the assigned lands un authorizedly against assignment rules to other persons on higher rates. Notices were issued to the assignees by the Mandal Revenue Officer and that the petitioners, having received the notices without approaching the Mandal Revenue Officer, filed this writ petition. In fact, the land in possession of the petitioners 1 and 2 was not taken for allotment of house sites. But the land measuring Ac.1.14 cents in Survey No.92 belonging to third petitioner was taken for house sites. The said land since vacant kept long time and so the petitioners are not entitled for any relief.

3. Heard the learned counsel for the petitioners and learned Government Pleader for respondents.

Since the fact that the petitioners are the legal heirs of the assignees is admitted and since the contention of the Government Pleader for respondents is that some of the assignees especially third petitioner is not entitled to the land because there was some violation of the terms of the assignment. It is made it clear that the

respondents after following due process of law only take possession of the land. In fact the petitioners, who are claiming to be the title of the property, by having a right, approach to the Civil Court for appropriate relief and the writ petition is unnecessary.

4. Accordingly, the writ petition is disposed of.

No order as to costs.

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21st February, 2005.

mrb

To

1. The District Collector, Kurnool District, Kurnool.
2. The Revenue Divisional Officer, Kurnool Division, Kurnool.
3. The Mandal Revenue Officer, Krishna Nagar, Kalluru

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Hyderabad(OUT).

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